NOT JUST A GAME:
THE IMPACT OF PENN STATE FOOTBALL ON JUDICIAL SENTENCING IN PENNSYLVANIA

by

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The U.S. Supreme Court has long held that a fair, unbiased trial is a basic requirement of due process (*In re Murchison* 349 U.S. 133 1955). Yet in court, the duty to remain impartial often falls on a single actor: the judge. Ideally, judges set aside personal attitudes and emotions while presiding over a case, using only the relevant facts, evidence, and clear legal criteria to guide their decisions — but are judges up to the task? Recent polling found that a slim majority (58 percent) of U.S. citizens view their state's courts as fair and impartial (NCSC 2017). Judges, however, seem to hold their objectivity in high regard: a survey of judges conducted by Rachlinski et al. (2009) reported that 97 percent believed they were in the top quartile of judges in preventing prejudice from interfering in their decision-making compared to their peers. Although mathematically impossible, this mindset is unsurprising: elected judges typically run for office touting their sense of fairness and impartiality. Confidence in their ability to remain objective puts judges at risk of overlooking other factors that influence their decisions. Does a gavel and law degree render judges immune to bias and emotion, or are they still subject to the same factors that affect the rest of us? My findings suggest that something as trivial as a college football game elicits emotion from judges and has real implications in the courtroom.

Literature Review

Contemporary research has found that a wide array of extralegal factors can influence judicial decision-making and produce unequal outcomes. Research on implicit cognition—the unconscious factors that influence a person's behavior— led to prominent findings on unconscious racial bias. Researchers found that, ceteris paribus, job applications with "black sounding" names had to send 50 percent more applications to receive a callback than applications with "white sounding" names (Bertrand and Mullainathan, 2004). This research has often focused on the criminal justice system, and entered the national dialogue following the

deaths of Michael Brown and Eric Garner at the hands of police in the summer of 2014. Salman, Lecoz, and Johnson (2015) found black defendants in Florida faced 68 percent longer sentences for first-degree crimes than whites. Nugent (1994) argues that increasing awareness of subconscious factors through education is key to mitigating the effects of bias. While steps are being taken by some police departments and judges to recognize subliminal bias, such as the Implicit Association Test (IAT), these are only one part of many possible factors that influence behavior and decision making. What factors besides race contribute to a judge's behavior?

While much of the implicit cognition research has focused on racial biases toward defendants, researchers have begun to consider how the environmental characteristics of a case could effect judge's moods and, in turn, their decisions. A 2011 study considered whether the ordinal position of a case during a workday had any effect on outcomes. It found that when a case was heard either at the beginning of a workday or immediately after a food break, judges were more likely to rule favorably than in cases at other times (Danziger et al 2011). This has become known as the "hungry judge effect," premised on the idea that a hungry judge is ill-tempered and prone to hand down harsher sentences. Cho et al. (2016) exploited daylight savings time, the "spring forward" day that has been widely noted to cause sleep deprivation. Examining sentencing data on this annual day found that, when judges are sleep deprived, they give 5% longer sentences than on normal days. While critics have raised doubt about the magnitude of environmental factors like the "hungry judge effect" (Glöckner 2016), research on judicial decision making continues to find that situational factors affecting everyday people, such as hunger and exhaustion, may also influence judges in the courtroom.

A judge's personal characteristics also factor in to their decisions through implicit egoism, as exhibited by the "name letter effect" coined by Jozef Nuttin (1985). This effect is

premised on the idea that people have an implicit positive association of their first and last name initials with themselves. Ergo, special associations follow. Chen (2017) found that judges sentenced defendants who shared their initials 8% longer than defendants who did not. This supported his hypothesis that people motivated to manage self image may subconsciously distance themselves from individuals with negative valences who are associated with the self — in this case by punishing those who "sullied their good name" with additional time. If judges can become emotionally attached to something as minute as their initials, what else is at play?

A prevalent source of emotional attachment comes in the form of sports. Sports fans are known to exhibit strong positive and negative emotions during and after games (Bernhardt, 1998). This is due to a factor known as team identification, a psychological connection sports fans make in which they perceive themselves as fans of the team, are concerned with the team's performance, and most importantly, view the team as a representation of themselves (Branscombe & Wann, 1992). Emotionally, fans with strong team identification equate team successes and failures as personal successes and failures. As a result, outcomes are tantamount: boring wins are preferred over exciting losses (Jang et al, 2018). With so many different sports played every day around the world, emotional shocks from wins and losses are near-omnipresent. Accordingly, real-world impacts resulting from behavioral changes could be frequent, widespread, and undetectable to the casual observer. This is why behavioral changes triggered by sports outcomes are studied by researchers: to discover how the shock effect of a sports game ripples outward. Researchers found that losses by a National Football League team are followed by spikes in domestic violence from angry fans in the losing team's hometown (Card and Dahl 2011). Spikes were only documented following unexpected losses: games the home team was expected to win. This suggests that fan expectations of the game are even more

important than the outcome of the game itself. Taken together, the home team's loss combined with the expectation that they would win created a strong negative emotional shock among fans. These effects have also been documented internationally, as rates of domestic violence in the United Kingdom spiked on days in which the English national soccer team won and lost matches in the 2010 World Cup, while there was no significant change when the team drew (tied) a match (Brimicombe and Cafe, 2012). Despite these results, it is worth noting that the everyday fan has no societal duty to remain unaffected by emotional shocks such as sports outcomes (though they certainly have one not to assault their spouses). Do judges, who are legally bound to impartiality, suppress their emotions —even implicit ones— concerning sports while on the job?

Mocan and Eren (2016) studied the emotional impact of Louisiana State University (LSU) football games on Louisiana judges who were LSU alumni by exploiting a natural experiment. They analyzed the length of sentences given to juvenile defendants in the week following each game. They noted a statistically significant relationship of harsher sentences following LSU football losses among judges who attended LSU for their undergraduate degree, as well as more lenient sentences in the week following a LSU win. Similar to the domestic violence studies cited above, the effect was most pronounced following an unexpected loss, in which sentence lengths increased by 7 percent. Games expected to be close, meanwhile, had no impact on disposition length. Given the intense following of LSU football in Louisiana, these results, while concerning, are perhaps unsurprising. It begs the question: was this study a fluke — an isolated circumstance limited only to the deep south? Or is it indicative of a widespread but undocumented phenomenon in the courts?

Given the above, my research aims to expand on Eren and Mocan's (2016) work by examining a new state and region of the country. The school I selected, Penn State, is a storied

program with a massive fanbase and boasts the third largest stadium on Earth. I aim to determine whether a judge's emotional connection to their law school's football team has any noticeable effect on the harshness or leniency of sentences. If sentence lengths are related to football outcomes, I expect judges who attended Penn State to give longer sentences following Penn State losses and shorter sentences following upset Penn State victories. However, if judges have a weak or negligible team identification to their law school's football team, sentences will not be affected in any significant way. The latter hypothesis was insinuated by Mocan and Eren (2016), who found a relationship between undergraduate—rather than law school— alumni for LSU.

Data and Method

The dependent variable in my study, disposition length, measures the length in days of each criminal sentence issued by a judge. I obtained this data from the Pennsylvania Commission on Sentencing (PCS) and includes data from the years 2009 and 2013. For each case record, I have information on the case, including crime type, sentence length, and date of sentencing. Crime type was distinguished into five categories: violent, property, drug, sex, and other crimes. Personal characteristics on each defendant include age, race, and gender. I was able to control for the previous criminal history of each defendant using their Prior Record Score (PRS), a measure developed by the Pennsylvania Commission on Sentencing. Together with Offense Gravity Score (OGS), another PCS developed measure which reflects of the severity of the crime committed, I was able to control for the presumptive sentence for each defender, a practice shown to improve the fit and explanatory power of predictive models for judicial sentencing (Engen and Gainey 2006).

Importantly, the data set also contains identifying information for the presiding judge in each case: their names and the counties they preside over. Using this information, I was able to

collect each judge's gender, number of years as a judge, and the law school from which they graduated, as well as the distance from each judge's county seat to State College, the municipality in which Penn State's campus and football venue, Beaver Field, is located. I took this measure on the supposition that judges who live closer to the stadium might be more likely to attend games, and as a result, be more emotionally connected to the team than judges who live further away from the epicenter of the program. I used Google Maps to calculate the total distance in miles from each county seat to State College. For biographical information on the judges, I used the lawyer database at martindale.com and *The Legal Intelligencer*. Based on mean values of the dataset, the typical judge is a 60 year old white male with 15 years of experience.

I pair this sentencing data with the win-loss records of the Penn State football team in 2009 and 2013 (more on why I chose these years later). Specifically, I analyzed the sentences given by judges during the weekdays immediately following each regular season and postseason game. To control for the expected result of each game, I collected the final Las Vegas pregame point spread before each of the 25 games across the 2009 and 2013 seasons. Pregame point spread data were collected from an online betting site (oddsshark.com) and game statistics are obtained from the Penn State athletic department (gopsusports.com). While point spreads can never be a perfect measure of fan expectations, on average they reflect all pertinent pregame information about the matchup (Asch and Quandt, 1986). The pregame spread and actual outcome for each game used in the study are presented in the appendix. Games are classified as close match-ups if the point spread in the betting market is between -4 and +4. A predicted win is classified as a game in which Penn State is favored by 4.5 or more points, while a predicted loss

is a game in which the other team is favored by 4.5 or more. While you cannot score half points in football, they are sometimes used by bookmakers to prevent the occurrence of a push (tie).

Results

The results of a multilevel model are presented in Table 1. A multilevel model was used due to the presence of nested data: hundreds of judges with hundreds of sentences each. The results provide three important insights. As illustrated in Figure 1, the data shows no statistically significant effect of football games on judges who received their law degree from Penn State, regardless of the game's predicted or actual outcome. This includes upset wins and upset losses, which the literature have shown to be the most influential drivers of sports-related shocks. In this case, I fail to reject the null hypothesis as the data suggests that judges have a negligible emotional connection to their law school's football team. This is intuitive when you consider that a great majority of these judges attended a school other than Penn State for their undergraduate degree, at a younger, arguably more impressionable age and for a longer period of time. These factors suggest that sports-loving judges are likely to form stronger team identification at their undergraduate alma mater than to their law school. This supports the findings of Mocan and Eren's (2016) study, which found no significant discrepancy between judges who graduated from LSU law school compared other law schools, finding instead that undergraduates were the drivers of their results.

Antagonist Effect

The second key insight is shown above in Figure 2. The data show that non-Penn State judges responded to a specific outcome with harsher sentences: Penn State's upset wins. An upset win is a game Penn State won despite being picked to lose by more than 4 points. When this was the case, non-Penn State judges sentenced defendants an entire month longer on

average. This reaction is statistically significant at the 1% level. Despite this group's response to upset wins, they did not respond to other game types (predicted close and predicted win) in a similarly significant way. Why the discrepancy? This asymmetry between negative and positive shocks has been noted widely in the literature on sports behavior (Eren and Mocan, 2016; Card and Dahl 2011), and supports to the idea that sports fans are loss averse: they react to negative events more than they react to positive ones (Kahneman and Tversky 1979; Koszegi and Rabin 2006).

The negative disposition from judges who did not attend Penn State suggests that Penn State football is strongly antagonized in Pennsylvania among those who are not fans. This "antagonist effect" is intuitive: Penn State is by all metrics the largest and most successful college football program in the Commonwealth. When a program has had as much success (and controversy) as Penn State, negative sentiment toward the team may become stronger, as seems to be the case here. I have observed a similar phenomenon in my own state of North Carolina, where a common sentiment among college sports fans is "Anybody But Carolina," referring to the preeminent University of North Carolina basketball team (and other sports). Due to Penn State's presumptive "antagonist" status, you may find a large amount of sports fans rooting against PSU at every occasion. For those who hate PSU football, it could be that nothing issue upsetting as an unexpected win. The data suggests this may be the case here.

The Scandal

Penn State may have antagonist status due to their historical dominance, but contemporary events might also be at play. I selected the years of 2009 and 2013 for this study because of their proximity to the Penn State child sex abuse scandal, which broke in 2011 following revelations that longtime assistant coach Jerry Sandusky used university athletic

facilities in conjunction with his charity, The Second Mile, to systematically rape young boys. University officials were implicated in a coverup that spanned at least 15 years. The story garnered the Penn State athletic department nationwide scrutiny and led to the firing of Joe Paterno, the winningest coach in college football history, and numerous upper-level university officials. I suspected that negative coverage of Penn State Football may have had some affect on the length of sentences following the scandal. To test this, I chose observations two years prior to the scandal (2009), and two years after it broke (2013). My comparison of the average sentence length in 2009 vs 2013 yielded intriguing results: among non-Penn State judges, I received a positive coefficient of 0.259, which is significant at the 1% level. For Penn State judges, I received a negative coefficient of -0.003. This means that for judges who attended Penn State, sentences were not noticeably different from one year to the other. However, for non-Penn State judges, sentences were longer in 2013 than they were in 2009. This could suggest that judges who went to Penn State were less reactive to the scandal than were judges who did not attend the school.

Why is this the case? If longer sentences for non-Penn State judges were indeed a result of the fallout from the child-sex scandal, the non-responsiveness from Penn State judges could stem from implicit egoism manifesting a halo effect based on a positive prior reputation of an entity that shields and deflects reputational damage during a crisis (Coombs and Holladay 2016). Since Penn State enjoyed a stellar reputation prior to the scandal, it fits the criteria that Coombs and Holladay (2016) found conducive to a halo effect. Under this framework, Penn State judges may have been less responsive to the shock of the scandal due to both their personal association with the school (having attended it), and the positive reputation it enjoyed. A similar reaction occurred among students at Penn State: in the aftermath of the scandal, many remained

supportive of Coach Joe Paterno despite allegations of his turning a blind eye to Sandusky's behavior. Paterno's past reputation shielded him from criticism of many of his fans.

Conclusion

My study has several implications for the body of research on extralegal factors in judicial sentencing. First: the initial focus of my research, the impact of Penn State football outcomes on its law school graduate judges, found that team identification is negligible at the law school level. This suggests that the phenomenon Mocan and Eren (2016) discovered is limited to judges' undergraduate loyalties, where they spent the most time and were the most impressionable. These formative college years may be the most conducive to fostering team identification. Also relevant is the fact that Penn State's primary law campus is located about 80 miles from State College in Carslie, Pennsylvania. Physical distance from the main campus and football stadium may have played a role in buffering law students from developing team identification as undergraduates do. This finding is important: learning the boundaries of extralegal factors like team identification enables researchers and judges to focus on those factors that do play a role in shaping sentence lengths.

Perhaps the most interesting result—the "antagonist effect" of non-Penn State judges issuing longer sentences following Penn State upset wins—is something I was not expecting. However, the finding in consistent with asymmetrical loss-aversion noted by Eren and Mocan (2016) as well as Card and Dahl (2011), in which an effect is most pronounced when produced by an unexpected negative valence. The finding reveals an unexplored niche in behavioral research: how individuals respond to the outcomes of teams they antagonize, not just the ones they root for. In the future, this concept may be used in the context of distinct rivalries, such as Duke/North Carolina or Alabama/Auburn, or simply to assess the reaction of a general group to

an antagonized team, as I have done here with Penn State. It it worth noting, however, that my dataset contains only two unexpected win events. This is largely due to the limitations of the data: Penn State was only predicted to lose by more than four points on three of the twenty-five game in the 2009 and 2013 data. Perhaps it is the rarity of the upset win that makes this such a powerful negative valence for anti-Penn State judges.

Third, my hypothesis that the 2011 child sex abuse scandal affected sentencing yielded intriguing results: evidence of a halo effect for Penn State judges which may have led to more lenient sentences than those issued by non-Penn State judges. With only one year before and one year after to sample from, it is impossible to say definitively. Any effects on sentencing may still be evolving: it could be that the disposition length spike from non-Penn State judges was a temporary reaction, or that Penn State judges simply lagged behind. Considering the limited timeframe of a halo effect and the continuing fallout from the scandal as victims continue to come forward and the depth of Penn State's coverup becomes more apparent. The impact of the scandal on sentencing over time merits continued research as more judicial data becomes available.

My research examines two spheres that, at first glance seem to have no intersect: the judicial system and collegiate sports. It is for this reason that research of this kind is important: searching for connections that few might acknowledge. In the age of research on subconscious bias, a judge's duty to impartiality has become a taller order than ever before. Avoiding obvious biases is not enough: members of the judiciary have a responsibility to take inventory their emotional investments along with their subliminal biases. Proactive efforts must continue to occur on two fronts: first, by researchers to identify and educate on decision-drivers in sentencing. Second, judges must actively identify those factors in themselves in order to

counteract their effects. These efforts are important steps in pursuit of a fair and impartial judicial system.

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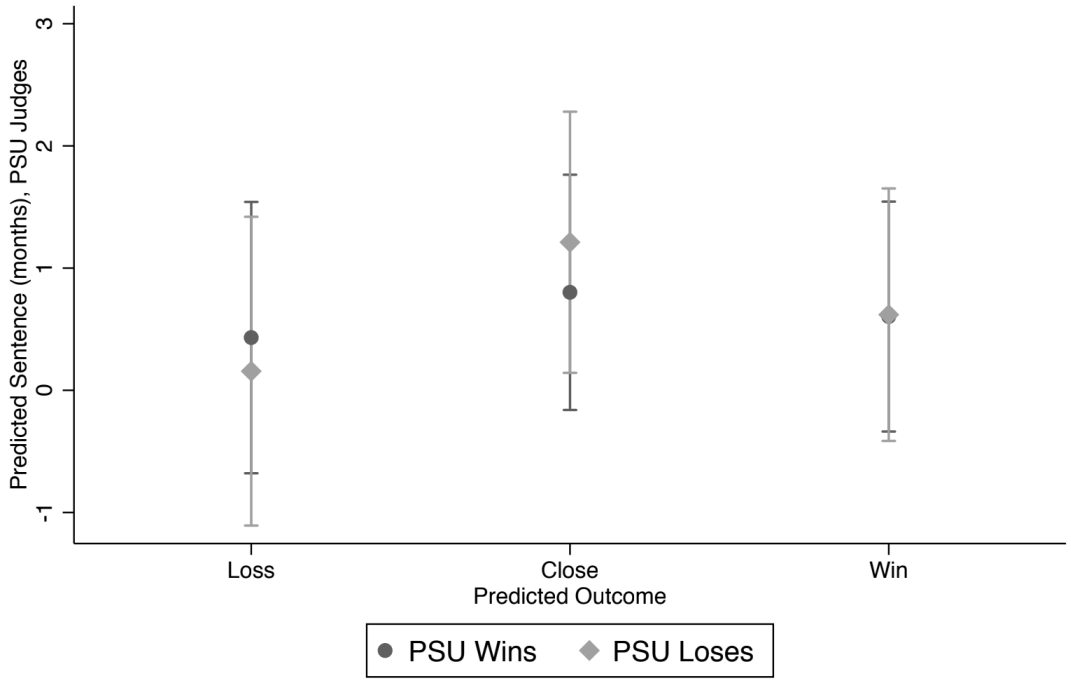
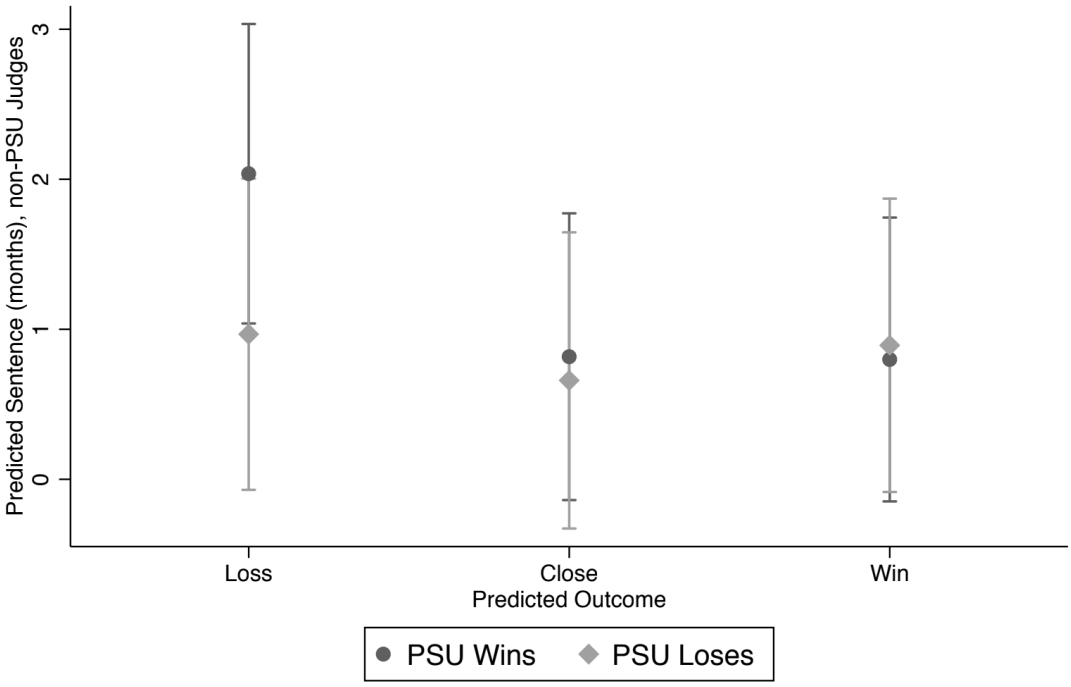
Figure 1: Predicted Sentence in months for Penn State judges



Based on multilevel model with variance components fit to judge. Qualitative variables set to modal values, and quantitative variables set to mean values.

Figure 2: Predicted Sentence in months for non-Penn State judges



Based on multilevel model with variance components fit to judge. Qualitative variables set to modal values, and quantitative variables set to mean values.

Table 1: Factors Affecting Sentencing

	All Judges	PSU Judges	Non-PSU Judges
	Coef. (Std. Error)	Coef. (Std. Error)	Coef. (Std. Error)
Offender Age	-0.007+	-0.010	-0.007+
	(0.004)	(0.008)	(0.004)
Black	-0.052	-0.002	-0.088
	(0.100)	(0.214)	(0.111)
Hispanic	0.106	1.715**	-0.1336
	(0.310)	(0.661)	(0.345)
Other race	-0.066	-0.663+	0.050
	(0.181)	(0.377)	(0.202)
Female	0.251*	0.254	0.238*
	(0.099)	(0.193)	(0.112)
Drug offenses	-3.145**	-1.921**	-3.346**
	(0.149)	(0.311)	(0.166)
Property offenses	-3.338**	-2.244**	-3.517**
	(0.148)	(0.302)	(0.165)
Sex offenses	-1.405**	-1.062*	-1.257**
	(0.262)	(0.515)	(0.297)
Other offenses	-2.717**	-1.299**	-2.972**
	(0.146)	(0.305)	(0.163)
Offense Gravity Score	2.407**	1.722**	2.526**
	(0.031)	(0.064)	(0.035)
Prior record score	0.759**	0.534**	0.805**
	(0.030)	(0.062)	(0.034)
Sexually violent predators	16.679**	18.342**	15.936**
	(0.488)	(0.986)	(0.546)
Jail	-25.732**	-27.022**	-25.470**
	(0.194)	(0.398)	(0.217)
Probation	-18.328**	-21.797**	-17.698**

	(0.257)	(0.521)	(0.289)
Bench/Jury	5.835**	3.006**	6.292**
	(0.221)	(0.470)	(0.247)
Judge Woman	2.050*	0.321	2.210*
	(0.925)	(0.947)	(1.039)
Distance from State College	0.018*	0.001	0.021+
	(0.009)	(0.008)	(0.011)
time_since_grad	0.021	0.016	0.019
	(0.042)	(0.040)	(0.048)
Judge PSU Grad	-0.384		
	(0.997)		
PSU Wins	0.965**	0.275	1.070**
	(0.249)	(0.536)	(0.277)
Predicted Close	-0.092	1.055*	-0.308
	(0.241)	(0.514)	(0.268)
Predicted Win	-0.017	0.462	-0.074
	(0.243)	(0.513)	(0.270)
PSU Wins X Predicted Close	-0.874**	-0.685	-0.912**
	(0.304)	(0.638)	(0.339)
PSU Wins X Predicted Win	-0.989**	-0.290	-1.165**
	(0.284)	(0.598)	(0.317)
Post Scandal	0.253*	-0.003	0.259*
	(0.107)	(0.211)	(0.120)
constant	12.006**	17.640**	11.082**
	(1.885)	(1.715)	(2.177)
var(Judge)	40.312**	4.138**	45.498**
	(1.755)	(0.813)	(2.136)
var(Sentence)	111.985**	69.403**	119.448**
	(0.291)	(0.460)	(0.338)
N	74372	11530	62842

AIC	5.63E+05	81788.277	4.80E+05
BIC	5.64E+05	81986.800	4.80E+05
ICC	0.265	0.056	0.276
Note: DV = # months			
+ p<0.10	* p<0.05	** p<0.01"	

Appendix: Penn State Football Games Pregame Point Spread for seasons 2009 and 2013

Opponent	Date	Point Spread	Actual Result (Anticipated Result)
Akron	9/5/09	PSU -29.5	Win (predicted win)
Syracuse	9/12/09	PSU -29.5	Win (predicted win)
Temple	9/19/09	PSU -29.5	Win (predicted win)
Iowa	9/26/09	PSU -9.5	Loss (predicted win)
Illinois	10/3/09	PSU -8	Win (predicted win)
Eastern Illinois	10/10/09	NA	Win (predicted win)
Minnesota	10/17/09	PSU -17.5	Win (predicted win)
Michigan	10/24/09	PSU -4	Win (predicted close)
Northwestern	10/31/09	PSU -17	Win (predicted win)
Ohio State	11/7/09	PSU -4.5	Loss (predicted win)
Indiana	11/14/09	PSU -24	Win (predicted win)
Michigan State	11/21/09	PSU -3	Win (predicted close)
LSU	1/1/10	PSU -2	Win (predicted close)
Syracuse	8/31/13	PSU -8	Win (predicted win)
Eastern Michigan	9/7/13	PSU -28	Win (predicted win)
UCF	9/14/13	PSU -4.5	Loss (predicted win)
Kent State	9/21/13	PSU -23.5	Win (predicted win)
Indiana	10/5/13	PSU -3.5	Loss (predicted close)
Michigan	10/12/13	PSU 1.5	Win (predicted close)
Ohio State	10/26/13	PSU +16	Loss (predicted loss)
Illinois	11/02/13	PSU +11	Win (predicted loss)
Minnesota	11/09/13	PSU +2.5	Loss (predicted close)
Purdue	11/16/13	PSU -21.5	Win (predicted win)

Nebraska	11/23/13	PSU -1	Loss (predicted close)
Wisconsin	11/30/13	PSU +25	Win (predicted loss)